

Notice of Allowability

Application No.

09/721,508

Examiner

Amber D. Steele

Applicant(s)

PARCE ET AL.

Art Unit

1639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to January 9, 2006.
2. ☒ The allowed claim(s) is/are 75-90.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

J. DOUGLAS SCHULTZ, PH.D.
SUPERVISORY PATENT EXAMINER



Response to Applicants' Reply

1. Please note: the examiner for the present application has changed. However, the Technology Center (TC1600) and Art Unit (AU1639) remain the same.
2. Applicants' response received on January 9, 2006 is acknowledged and entered.

Status of the Claims

3. The amendment to the claims received on November 22, 2000 canceled claims 1-74 and added new claims 75-90.

The amendments to the claims received on October 28, 2002 and December 18, 2002 added new claims 91-107.

The amendment to the claims received on October 14, 2003 cancelled claims 91-107.

The amendment to the claims received on July 26, 2005 amended claims 78 and 87.

The amendment to the claims received on January 9, 2006 changed the status identifiers of the claims only.

Claims 75-90 are currently pending and under consideration.

Withdrawn Rejections

4. The rejection of claims 75-81 and 83-90 under 102(e) as being anticipated by Ramsey (U.S. Patent 6,001,229, filed August 1, 1994) is withdrawn in view of applicants argument regarding the lack of sample access ports on the first plate and the lack of a planar array of microfluidic networks in the second plate in the teachings of Ramsey.

5. The rejection of claim 82 under 103(a) as being unpatentable over Ramsey (U.S. Patent 6,001,229, filed August 1, 1994) and Foster et al. (U.S. Patent 4,444,879) is withdrawn in view of applicants argument regarding the lack of sample access ports on the first plate and the lack of a planar array of microfluidic networks in the second plate in the teachings of Ramsey.

6. The rejection of claims 75-78, 83-84, and 86 under the judicially created doctrine of obviousness-type double patenting over U.S. Patents 5,885,470; 6,482,364; 6,167,910; and 6,251,343 are withdrawn in view of the terminal disclaimers received on January 9, 2006.

Reasons for Allowance

7. The following is an examiner's statement of reasons for allowance:

The instant claims are allowed for the primary reason that the prior art does not teach apparatuses, kits, or methods comprising and/or utilizing a first plate with an array of sample access ports and a second plate with microfluidic networks. In addition, during interference proceedings, the junior party Bjornson et al. (U.S. Patent 6,103,199) conceded priority to the present application on February 22, 2007. Subsequently, on February 27, 2007, the Board of Patent Appeals and Interferences decided against the junior party of Bjornson et al. and thus in favor of the present application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Future Communications

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amber D. Steele whose telephone number is 571-272-5538. The examiner can normally be reached on Monday through Friday 9:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Schultz, can be reached on 571-272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ADS
May 30, 2007


J. DOUGLAS SCHULTZ, PH.D.
SUPERVISORY PATENT EXAMINER